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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION
E-10 ID #1954
RESOLUTION E-3793
April 17, 2003

R E S O L U T I O N

Resolution E-3793. Southern California Edison Company (Edison) requests authorization to continue offering its Telephone Solicitation Service for Newspapers and to establish a new non-tariffed product and service category entitled Newspaper Solicitation Service. This resolution denies Edison's requests.

By Advice Letter 1436-E. Filed on February 22, 2000.

SUMMARY

This Resolution denies Edison's Advice Letter 1436-E requests. On September 19, 2002, the Commission unanimously voted down draft Resolution E-3697, which would have approved Edison's Advice Letter 1436-E requests with modifications. The Commission denied draft Resolution E- 3697 because of the following:

- There are concerns regarding customer privacy.
- There is a lack of resources for enforcement of customers' safeguards to protect customers' information (telephone number and address).
- The Commission lacks jurisdiction over newspapers.
- There appears to be a conflict of interest, since newspapers are often the editorial critics of the utilities.
- The core mission of utilities is to provide safe and reliable service and not to sell newspapers.

BACKGROUND

On February 22, 2000, Edison filed Advice Letter (AL) 1436-E pursuant to Resolution E-3639¹ and D.99-09-070.² The advice letter requested authorization to continue offering its telephone solicitation service for newspapers and to establish a new non-tariff product and service category entitled Newspaper Solicitation Service. Edison requests that the Newspaper Solicitation Service is "active" for purposes of its gross revenue sharing mechanism. In addition, Edison requests a limited waiver of Rule IV.A, Customer Consent, of the Affiliate Transaction Rules.

On September 18, 2000, Edison filed a request to the CPUC's Executive Director to extend the termination date of the newspaper solicitation pilot program "until the Commission votes on a final resolution." On September 21, 2000, the CPUC's Executive Director granted Edison's request.

At the Commission meeting on September 5, 2002, the Commission discussed, in part, its following concerns regarding Edison's requests in AL 1436-E:

- There are concerns regarding customer privacy.
- There is a lack of resources for enforcement of customers' safeguards to protect customers' information (telephone number and address).
- The Commission lacks jurisdiction over newspapers.
- There appears to be a conflict of interest, since newspapers are often the editorial critics of the utilities.
- The core mission of utilities is to provide safe and reliable service and not to sell newspapers.

¹ Resolution E-3639 ordered Edison to file an advice letter pursuant to Rule VII.E of the Affiliate Transaction Rules in order to receive Commission authorization to offer this Newspaper Solicitation Service on a continuing basis.

² D.99-09-070 sets forth the conditions that must be met for the Commission to determine if a new category of non-tariffed products or services will be considered "active" or "passive" for revenue sharing purposes.

The Commission decided to hold over draft Resolution E-3697 addressing AL 1436-E, until the next Commission meeting on September 19, 2002.

On September 19, 2002, the Commission unanimously voted down draft Resolution E-3697 that would have approved Edison's AL 1436-E with modifications.

NOTICE

Notice of AL 1436-E was made by publication in the Commission's Daily Calendar. Edison states that a copy of the advice letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

No protests were filed to Edison's AL 1436-E, however, on March 13, 2000, ORA filed a letter with comments on Edison's AL 1436-E. ORA did not object to Edison's request to offer its Newspaper Solicitation Service and concurs that the service offering is "active" for revenue sharing purposes. ORA recommends Edison use a proscribed script and to submit annual reports on the Newspaper Solicitation Service to the Energy Division (ED).

On March 21, 2000, Edison responded to ORA's comments. Edison agreed with ORA's recommendations.

DISCUSSION

At the September 5, 2002, Commission meeting, the Commission discussed the following concerns with draft Resolution E-3697 addressing Advice Letter 1436-E:

- A customer's call to establish, change, or discuss service, should not be subjected to a sales "pitch" for newspaper solicitations.
- Telephone solicitation business is unrelated to the core mission of the utilities, which is to provide customers with safe and reliable electric and/or gas service.

- There are concerns with the privacy implications of the utility being able to provide its customers' information to others for profit.
- The Commission does not have the resources to enforce customers' safeguards recommended in draft Resolution E-3697 to protect Edison's customers' privacy.
- The Commission has no jurisdiction over newspapers and does not have the resources to ensure that the customer's information (regarding phone number and address) are not sold to other telemarketers or any other third party.
- Newspapers are often the editorial critics of the utilities; thus, there may be a conflict of interest.
- The Commission should not be encouraging utilities to be spending time and effort on matters other than their core mission of providing electric and/or gas service. Especially, when 90% of the profit is going to the shareholders and 10% is going to the ratepayers.

On September 19 2002, the Commission unanimously voted down draft Resolution E-3697. This resolution denies Edison's requests in AL 1436-E.

COMMENTS

Public Utilities Code section 311(g)(1) provides that a resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments. On April 4, 2003, Edison filed its comments on draft Resolution E-3793.

Edison stated that it "interpreted the Commission's rejection of Resolution E-3697 as a denial of Advice (Letter) 1436-E." Thus, Edison did not establish a non-tariffed product and service category for telephone solicitation service for

newspapers. On October 11, 2002, Edison terminated its pilot Newspaper Solicitation Service with the Los Angeles Times.

Consequently, Edison requests modifications to draft Resolution E-3793 to reflect that it has already terminated the Newspaper Solicitation Service. In addition, Edison requests the deletion of Findings 4 and 5, and Ordering Paragraphs 2 and 3, that order Edison to terminate its Newspaper Solicitation Service and to inform the Energy Director of this termination of service within 30 days. We grant Edison's requests.

FINDINGS

1. On September 19, 2002, the Commission voted down draft Resolution E-3697 that would have approved Edison's Advice Letter 1436-E with modifications.
2. The Commission voted down draft Resolution E-3697 for the following reasons:
 - There are concerns regarding customer privacy.
 - There is a lack of resources for enforcement of customers' safeguards to protect customers' information (telephone number and address).
 - The Commission lacks jurisdiction over newspapers.
 - There appears to be a conflict of interest, since newspapers are often the editorial critics of the utilities.
 - The core mission of utilities is to provide safe and reliable service and not to sell newspapers.
3. Edison's requests in AL 1436-E are denied.

THEREFORE IT IS ORDERED THAT:

1. The requests of Edison to continue offering its existing telephone solicitation service for newspapers and to establish a new non-tariffed Newspaper Solicitation Service as requested in Advice Letter 1436-E are denied.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on April 17, 2003; the following Commissioners voting favorably thereon:

WILLIAM AHERN
Executive Director